CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

July 17, 2002

H.R. 4070
Social Security Protection Act of 2002

As passed by the House on June 26, 2002

SUMMARY

H.R. 4070 would strengthen the supervision of representative payees (people who handle benefit checks belonging to others, such as children or mentally impaired adults), bar Social Security benefits to fugitives, and revamp the Social Security Administration's (SSA's) procedures for paying attorneys who represent successful claimants. In all, the act contains more than two dozen provisions, although many would have little or no budgetary effect.

Enacting H.R. 4070 would affect both direct spending and receipts; therefore, pay-as-you-go procedures would apply. More than half of the bill's effects, however, are in Social Security, which is off-budget and excluded from pay-as-you-go procedures.

On balance, H.R. 4070 would have no significant net impact on direct spending and revenues in 2003 but would have net savings by growing amounts thereafter—$22 million in 2004 and $76 million in 2012, by CBO's estimate.

H.R. 4070 also would affect discretionary spending. CBO estimates that implementing the act would cost SSA $15 million to $20 million a year for extra enforcement and processing activities.

Section 4 of the Unfunded Mandates Reform Act (UMRA) excludes from the provisions of that act any provision in a bill that relates to the old-age, survivors, and disability insurance program under title II of the Social Security Act. Some provisions of this bill would fall into that exclusion. The remaining provisions contain no intergovernmental mandates as defined in UMRA and would impose no costs on the budgets of state, local, or tribal governments.

ESTIMATED BUDGETARY EFFECTS OF H.R. 4070

	By Fiscal Year, in Millions of Dollars									
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
CHANGES IN DIRECT SPENDING (Outlays)										
Title I. Protection of beneficiaries: Authority to reissue benefits misused by certain organizations serving as representative payees										
OASDI benefits	1	*	*	*	*	*	*	*	*	*
SSI benefits	1	*	*	*	*	*	*	*	*	*
Title II. Program protections: Denial of benefits to fugitive felons and persons fleeing prosecution										
OASDI benefits	-9	-29	-42	-53	-57	-59	-62	-64	-66	-68
Medicare	*	-7	-12	-17	-21	-24	-25	-26	-28	-29
Title III. Attorney fee payment system improvements:										
$100 cap on attorney assessments in OASDI, collections	8	19	20	21	23	25	26	28	29	31
Extension of attorney fee payment system to SSI claims, SSI collections	-1	-5	-5	-5	-5	-6	-6	-6	-6	-6
Title IV. Miscellaneous and technical amendments, OASDI benefits	*	*	*	*	*	*	*	*	*	1
Total changes in direct spending										
On-budget	*	-12	-17	-22	-26	-30	-31	-32	-34	-35
Off-budget (OASDI)	*	-10	-22	-32	-34	-34	-36	-36	-37	-36
Total	*	-22	-39	-54	-60	-64	-67	-68	-71	-71
CHANGES IN REVENUES										
Treatment of "individual work plans" as qualifying plans for purposes of Work Opportunity Credit	-1	-1	0	0	0	0	0	0	0	0
Permission for Kentucky to operate divided retirement systems										
OASDI revenues	1	1	2	2	2	3	3	4	4	5
Other revenues	*	*	*	*	*	*	*	*	*	*
Total changes in revenues										
On-budget	-1	-1	*	*	*	*	*	*	*	*
Off-budget (OASDI)	1	1	2	2	2	3	3	4	4	5
Total	*	*	2	2	2	3	3	4	4	5

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	By Fiscal Year, in Millions of Dollars									
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
NET CHANGES IN DIRECT SPENDING AND REVENUES (Change in Surplus)										
On-budget	-1	11	17	22	26	30	31	32	34	35
Off-budget (OASDI)	1	11	24	34	36	37	39	40	41	41
Total	*	22	41	56	62	67	70	72	75	76
CHANGES IN SPENDING SUBJECT TO APPROPRIATION (Outlays)										
OASDI administrative expenses	4	3	2	2	2	2	2	2	2	2
SSI administrative expenses	13	13	13	14	15	16	17	18	19	19
Total	17	16	15	16	17	18	19	20	21	21

NOTES: OASDI = Old-Age, Survivors, and Disability Insurance; SSI = Supplemental Security Income.

* = Less than $500,000.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 4070 is shown in the following table. The costs of this legislation fall within multiple budget functions: 570 (Medicare), 600 (Income Security), and 650 (Social Security).

BASIS OF ESTIMATE

Direct Spending and Revenues

For this estimate, CBO assumes that H.R. 4070 will be enacted in September 2002.

Title I. About five million people (two million adults and three million children) who get Social Security benefits and two million (one million adults and a million children) who collect Supplemental Security Income (SSI) have their checks sent to a representative payee, who helps manage the beneficiary's finances. Often, a family member serves as the representative payee. But especially for adult recipients, a social service agency, an institution, or similar organization may serve as a payee. SSA monitors representative payees by requiring annual accounting reports and by conducting on-site reviews every three years of certain representative payees who serve a large number of beneficiaries. Title I would direct SSA to certify annually that social service agencies meet licensing and bonding requirements and to conduct periodic on-site inspections of more representative payees. It would enhance SSA's ability to recover misused funds and to impose civil monetary penalties.

Most of the provisions would have negligible effects on benefit payments or recoveries. One section, however, would direct SSA to pay beneficiaries any amounts that had been misused by an organizational representative payee, even if there was no negligence on SSA's part. (Currently, such claimants must show negligence by SSA.) Representative payees misuse about $3 million in benefits each year. Only about 10 percent of payees are organizations that would be covered by this provision, so it would cost about $300,000 a year. Because the provision would be retroactive to January 1, 1995, CBO estimates that it would cost $2 million in 2003—about $1 million for Old Age, Survivors, and Disability Insurance (OASDI), and about $1 million for SSI.

Title II. H.R. 4070 would forbid fugitive felons and people fleeing prosecution from collecting Social Security benefits. CBO estimates that this policy would reduce Social Security spending by $9 million in 2003 and $509 million over the 2003-2012 period. In addition, while associated savings for Medicare would be negligible in 2003, the 10-year savings would total $189 million.

CBO used data from a recent report by SSA's Office of the Inspector General (IG) to estimate these budgetary savings. In that report, the IG extrapolated from a sample of about 400 cases in 10 states and estimated that fugitives received between $40 million and $180 million in Social Security benefits in 1999. The midpoint of that range ($110 million) reflected an estimated 15,000 fugitives with an average benefit of almost $600 per month. Updating that figure for growth in caseloads and average benefits would raise it to $120 million in 2003 and $170 million in 2012.

CBO judges, however, that several obstacles would keep savings from reaching those figures. First, enforcement is difficult. By tapping the National Criminal Information Center (NCIC) and sharing data with some states that report only selected warrants to the NCIC, SSA has access to more than half of fugitive warrants, but may still lack key information (such as full name and Social Security number) for an accurate match. Illustrating that hurdle, an IG study of the SSI program—where fugitives are already ineligible—found that about 20 percent of ineligible SSI recipients were suspended from the rolls promptly, another 30 percent were suspended eventually, and 50 percent were apparently missed. Those data covered years before 2000, when SSA began matching data with the NCIC; nevertheless they lead CBO to assume that matching will ultimately be about 60 percent effective.

Second, some people spotted by computer matching will probably clear their records when their benefit checks stop, resulting in little or no long-term savings. CBO found that many warrants are dated—about 15 percent of state warrants, for example, are more than 10 years old—and many are for nonviolent offenses such as drug possession and probation or parole violation. In such cases, "fugitives" with no subsequent convictions may face nothing worse than a suspended sentence or probation, and some would surely run that risk. To account for such cases, CBO subtracted another one-third from potential savings, bringing the result to about 40 percent of the IG's figure. CBO assumes those savings are attainable in 2006 and later; earlier years' figures are more modest, as SSA hammers out data-sharing agreements with more states and writes regulations.

CBO assumes that most of the fugitives—about four-fifths—who would be affected by this provision are disabled beneficiaries who qualify for Medicare. But because a Medicare enrollment card is generally valid for one year, CBO judges that the proposed ban on Medicare for fugitives would lag behind their suspensions from Social Security. Estimated Medicare savings per case would average about $6,000 in 2004 and would grow to $9,500 in 2012.

Title III. Many Social Security claimants, especially disability applicants who win benefits on appeal, are represented by attorneys. A standard fee agreement between attorney and client pledges that the attorney will receive 25 percent of any past-due benefits up to a cap of $5,300. (By the time someone wins on appeal, past-due benefits typically amount to about 18 months' worth.) That cap stood at $4,000 for more than a decade until SSA raised it earlier this year. When SSA awards OASDI benefits in these cases, it pays the attorney fee directly from the past-due amounts. In contrast, when SSA awards Supplemental Security Income benefits only, or denies all benefits, the attorney must seek his or her fee from the client. Processing attorney fees remains a labor-intensive chore for SSA, and in 1999 the Congress permitted the agency to withhold up to 6.3 percent of the amounts paid to offset some of those costs.

SSA pays attorney fees in about 200,000 OASDI cases and concurrent OASDI/SSI cases a year. The average fee is about $2,500, and the average processing charge about $160. By 2012, CBO expects that annual volume will be about 250,000, the average fee about $3,300, and hence the average charge about $210. H.R. 4070 proposes to cap the charge at $100 with no adjustment for inflation. That would erase more than half of expected receipts by 2012, a loss of about $30 million. CBO estimates that over the next 10 years the new limit would cost $230 million.

H.R. 4070 also proposes to extend the attorney-fee system to SSI. SSA now approves, but does not disburse, attorney fees in about 50,000 SSI-only cases. The average fee is about $1,800. By 2012, CBO estimates those figures would be about 70,000 and $2,400 respectively. (Because SSI benefits are lower than DI's, the average attorney fee—which cannot exceed 25 percent of past-due benefits—is also lower. Until the recent increase, more than one-quarter of fees in DI cases clustered at the $4,000 limit.) Thus, processing charges from SSI-only cases in 2012 would be about $10 million without the $100 cap, $6 million with the cap. Total collections over the 2003-2012 period would amount to $51 million.

Title IV. H.R. 4070 would correct sections of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170) that governed SSA's research and demonstration projects. It would allow SSA to continue waiving certain provisions of law, when appropriate, for projects initiated before December 2004. Currently such waivers will expire abruptly on that date, even for projects already launched. SSA does not expect to use such waivers extensively other than for the $1-for-$2 demonstrations (see below), so CBO ascribes a negligible cost.

DI beneficiaries face limits on their earnings. Applicants who demonstrate substantial gainful activity, currently $780 a month, cannot qualify for DI; beneficiaries who make more than that for a nine-month trial work period and three-month grace period lose their entire check. The 1999 law directed SSA to conduct demonstrations in which checks would be reduced by $1 for each $2 of earnings over certain thresholds. But that law left unclear how the projects would be funded. H.R. 4070 clarifies that SSA would pay benefits from the trust fund and other costs—for the design, conduct, and evaluation of the demonstrations—from its appropriation.

In the meantime, statisticians and other experts have advised SSA to conduct $1-for-$2 demonstrations narrower in scope than CBO assumed in 1999. In particular, they believe SSA cannot realistically measure "induced filers" via the demonstrations. Induced filers—workers with severe impairments who would not otherwise have applied for benefits but who are attracted by a more liberal treatment of earnings—dominated CBO's earlier analyses of the demonstrations' costs. (As SSA's plans became clearer, CBO removed those estimated costs from its baseline.) CBO expects that targeting the experiments only at a sample of current recipients would lead to little net change in benefits.

H.R. 4070 would broaden the Work Opportunity Tax Credit to cover people who use a ticket for vocational rehabilitation (VR) under the 1999 law. That credit, which expires after December 2003, allows employers to subtract up to 40 percent of the first $6,000 of wages from income tax when they hire members of targeted groups. People referred by state VR agencies are one such group; H.R. 4070 would add DI and SSI beneficiaries who choose other VR providers, such as private firms or nonprofit organizations. The first tickets were distributed in 2002 and nationwide implementation will take three years. Because the tickets program is still young, the Joint Committee on Taxation estimates that broadening eligibility in this fashion would reduce revenues by $1 million each in 2003 and 2004.

Title IV also would expand eligibility for widows' and widowers' benefits in narrow circumstances. To collect Social Security on a deceased worker's record, a widow or widower must either have been married to the worker for nine months or be actively caring for the worker's child. Lawmakers recently learned about an unusual case in which a worker could not marry his longtime companion because state law forbade him from divorcing his spouse, who was in a mental institution. When his wife's death finally permitted him to remarry, he was already terminally ill and died a few months later. H.R. 4070 would waive the duration-of-marriage requirement in those rare circumstances. Only one such case has come to light and CBO assumes that the provision would have little cost.

Under section 218 of the Social Security Act, 21 states are allowed to operate retirement systems in which some but not all employees are covered under Social Security. In such divided systems, newly hired employees must pay Social Security tax, but employees already on the payroll may choose their coverage. H.R. 4070 would add Kentucky to the list. A planned merger of two Louisville-area fire and police departments apparently spurs the provision. CBO assumes that 200 of the 1,300 workers affected would choose Social Security, and 60 or so new hires each year would add to their ranks. Extra Social Security taxes would grow from $1 million in 2003 to $5 million in 2012. Workers who switch coverage can avoid or soften the government pension offset and windfall elimination provision—two policies that limit Social Security benefits when workers collect pensions from noncovered employment. Only a minority of the newly covered employees, though, would qualify for Social Security in the next 10 years, and CBO estimates extra costs of $1 million in 2012.

Spending Subject to Appropriation

CBO estimates that implementing H.R. 4070 would cost SSA $15 million to $20 million a year in extra enforcement and processing expenses. Half of the cost in 2003, and up to three-quarters in later years, would come from disbursing attorney fees in SSI cases. Under that proposal, SSA would split the first SSI check into at least two parts—one for the attorney and one for the beneficiary—as it does in DI. (A third party—the state—may also be entitled to a share if it paid benefits under a so-called interim assistance program.) Based on a study by the General Accounting Office, CBO assumes that each DI case that involves attorney fees costs SSA about $220; of that total, about $45 is for fee approval (which SSA already performs in SSI) and $175 is for fee processing (which SSA does not do in SSI). Multiplying by the assumed volume of cases yields expected costs of $9 million in 2003 and more in later years.

Other provisions—chiefly those that would mandate more on-site inspections, bonding and licensing, and related scrutiny of representative payees and require SSA to produce new studies and reports—would cost an estimated $8 million in 2003 and $4 million to $6 million a year thereafter. The SSI and DI programs each would account for about half of those amounts.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go rules, only the effects through 2006 are counted. Social Security benefits and revenues are excluded from all pay-as-you-go calculations.

	By Fiscal Year, in Millions of Dollars										
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Changes in outlays	0	0	-12	-17	-22	-26	-30	-31	-32	-34	-35
Changes in receipts	0	-1	-1	0	0	0	0	0	0	0	0

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

Section 4 of UMRA excludes from the provisions of that act any provision in a bill that relates to the old-age, survivors, and disability insurance program under title II of the Social Security Act. Some provisions of this bill would fall into that exclusion. The remaining provisions contain no intergovernmental mandates as defined in UMRA and would impose no costs on the budgets of state, local, or tribal governments.

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